

2007 MISCELLANEOUS ADMINISTRATIVE RULE CHANGES

Includes rules regarding European wall lizards, Mute swans, Bald eagles, the Special Turtle Possession Permit, and Dog Training Ground Permit

The proposed changes are summarized as follows:

- Allows an individual to trap a European wall lizard at Falls of the Ohio State Park with the written authorization from the division of state parks. These lizards are an exotic species and the state herpetologist has been trapping them under the authority of an emergency rule the past couple of years. A permanent rule is needed to continue to allow them to be taken.
- Allows a live mute swan to be possessed, as long as it is pinioned and kept in an enclosure that prevents its escape into the wild. Also allows mute swans to be sold as long as certain conditions are met. These activities have been allowed by emergency rule the past couple of years, and a permanent rule is needed.
- Removes the bald eagle from the state's list of endangered birds. Indiana now has a large breeding population and the bald eagle no longer qualifies as an endangered species under state statute (IC 14-22-34-1). Even though it is being removed from the endangered species list, it would be protected from being taken under the federal Migratory Bird Treaty Act and state law.
- Modifies the Special Turtle Possession Permit to require inspections by conservation officers only one time, and then on an as-needed basis. Also extends the permit to three years, instead of requiring a renewal each year. This permit allows individuals to possess eastern box turtles that have been legally obtained since they can no longer be taken from the wild in Indiana. Many individuals have pet box turtles under this permit, and inspections are no longer needed each year due to the enclosures in which the turtles are typically housed.
- Modifies the Dog Training Grounds Permit Rule to clarify that a person can have a dog training ground to take captive-reared bobwhite quail and ring-necked pheasants on no more than 20 acres of land, and allows a person to have no more than one dog training ground on a contiguous tract of land. Amends the size requirement for signs posted around the property, and requires individuals to have documentation on the origin of the birds when participating in the dog training. Clarifies that the birds cannot be possessed for more than 5 days or sold without a game breeder license, and clarifies that the property cannot be used for commercial purposes. A person can use that property in a field trial or as part of a shooting preserve, but the appropriate license must also be obtained for that activity as required in statute.

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #07-

Amends 312 IAC 9-2-11 to allow the European wall lizard to be trapped at Falls of the Ohio State Park. Adds 312 IAC 9-4-2.5 to allow mute swans to be possessed and sold. Amends 312 IAC 9-4-14 to remove the bald eagle from the list of endangered birds. Amends 312 IAC 9-5-11 and 9-10-16 governing the turtle possession permit and dog training ground permit. Effective 30 days after filing with the Publisher.

312 IAC 9-2-11
312 IAC 9-4-2.5

312 IAC 9-4-14
312 IAC 9-5-11
312 IAC 9-10-16

SECTION 1. 312 IAC 9-2-11 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-2-11 State parks and state historic sites

Authority: IC 14-22-2-6

Affected: IC 4-21.5; IC 14-22-6-1

Sec. 11. (a) ~~A person~~ **An individual** must not take or chase a wild animal, other than a fish, in a state park or a state historic site.

(b) An individual qualified under this subsection may trap any European wall lizard (*Podarcis muralis*) from the Falls of the Ohio State Park and the adjacent federal Falls of the Ohio Wildlife Conservation Area in Clarksville, Indiana. In order to qualify under this subsection, an individual must do each of the following:

- (1) Possess a written authorization from the division of state parks.**
- (2) Comply with any terms in the written authorization. These terms shall include a requirement that a European wall lizard can be taken only with approved methods.**
- (3) For the federal Falls of the Ohio Wildlife Conservation Area, comply with any other terms in the written authorization that are required by the U.S. Army Corps of Engineers.**

(Natural Resources Commission; 312 IAC 9-2-11; filed May 12, 1997, 10:00 a.m.: 20 IR 2701; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 19, 2003, 8:14 a.m.: 27 IR 459)

SECTION 2. 312 IAC 9-4-2.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-4-2.5 Mute Swans

Authority: IC 14-22-6-2; IC 14-22-2-6

Affected: IC 14-22

(a) A person may possess a live mute swan only if each of the following is satisfied:

- (1) The swan is pinioned prior to six (6) weeks of age.**
- (2) The swan is in an enclosure that prevents its escape into the wild.**

(b) A wing of each swan must be pinioned so the:

- (1) metacarpal bones of one (1) wing or a portion of the metacarpal bones are removed; and**
- (2) swan is permanently incapable of flight.**

(c) A person may sell a live mute swan only if each of the following is satisfied:

- (1) The swan is pinioned by the age of six (6) weeks.**
- (2) The swan is not released into the wild and will be held in an enclosure that prevents its escape into the wild.**
- (3) The person keeps an inventory of the number of mute swans possessed, including all swans that are born or die, and all transactions by which a mute swan is sold, traded, loaned, bartered or given to another person. The person must issue a valid, dated receipt for all mute swans sold, traded, bartered or gifted and include the following information:**
 - (A) Name and address of the buyer or person to whom the mute swans were gifted.**

(B) Name and address of the seller.

(C) Number of mute swans sold.

(D) Date sold.

(Natural Resources Commission; 312 IAC 9-4-2.5)

SECTION 3. 312 IAC 9-4-14 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-14 Endangered species of birds

Authority: IC 14-10-2-4; IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 14. The following species of birds are endangered and are subject to the protections provided under IC 14-22-34-12:

- (1) American bittern (*Botaurus lentiginosus*).
- (2) Least bittern (*Ixobrychus exilis*).
- (3) Black-crowned night-heron (*Nycticorax nycticorax*).
- (4) Yellow-crowned night-heron (*Nyctanassa violacea*).
- (5) Trumpeter swan (*Cygnus buccinator*).
- (6) Osprey (*Pandion haliaetus*).
- ~~(7) Bald eagle (*Haliaeetus leucocephalus*).~~
- ~~(8) (7) Northern harrier (*Circus cyaneus*).~~
- ~~(9) (8) Peregrine falcon (*Falco peregrinus*).~~
- ~~(10) (9) Black rail (*Laterallus jamaicensis*).~~
- ~~(11) (10) King rail (*Rallus elegans*).~~
- ~~(12) (11) Virginia rail (*Rallus limicola*).~~
- ~~(13) (12) Common moorhen (*Gallinula chloropus*).~~
- ~~(14) (13) Whooping crane (*Grus americana*).~~
- ~~(15) (14) Piping plover (*Charadrius melodus*).~~
- ~~(16) (15) Upland sandpiper (*Bartramia longicauda*).~~
- ~~(17) (16) Least tern (*Sterna antillarum*).~~
- ~~(18) (17) Black tern (*Chlidonias niger*).~~
- ~~(19) (18) Barn owl (*Tyto alba*).~~
- ~~(20) (19) Short-eared owl (*Asio flammeus*).~~
- ~~(21) (20) Sedge wren (*Cisothorus platensis*).~~
- ~~(22) (21) Marsh wren (*Cisothorus palustris*).~~
- (23) (22) Loggerhead shrike (*Lanius ludovicianus*).
- ~~(24) (23) Cerulean warbler (*Dendroica cerulea*).~~
- ~~(25) (24) Golden-winged warbler (*Vermivora chrysoptera*).~~
- ~~(26) (25) Kirtland's warbler (*Dendroica kirtlandii*).~~
- ~~(27) (26) Henslow's sparrow (*Ammodramus henslowii*).~~
- ~~(28) (27) Yellow-headed blackbird (*Xanthocephalus xanthocephalus*).~~

(Natural Resources Commission; 312 IAC 9-4-14; filed May 12, 1997, 10:00 a.m.: 20 IR 2712; filed May 28, 1998, 5:14 p.m.: 21IR 3717; filed Dec 26, 2001, 2:40 p.m.: 25 IR 2535; filed May 16, 2002, 12:25 p.m.: 25 IR 3046; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 542; filed Jun 29, 2007, 2:30 p.m.: 20070725-IR-312060272FRA)

SECTION 4. 312 IAC 9-5-11 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-5-11 Turtle possession permit

Authority: IC 14-22-2-6; IC 14-22-26-3; IC 14-22-34-17

Affected: IC 4-21.5; IC 14-22

Sec. 11. (a) Except as provided in subsection (b), this section establishes the requirements that a person must satisfy to possess a turtle that is listed in section 7(c) of this rule.

(b) Exempted from this section is any:

- (1) species of turtle that is possessed lawfully under section 2, 3, or 6 of this rule; and
- (2) endangered species of native turtle that is possessed lawfully under 312 IAC 9-11.

(c) The department shall not issue a permit under this section to possess a turtle that is listed as endangered under section 4 of this rule.

(d) A person must be an Indiana resident to receive a permit under this section.

(e) A person must submit, on a departmental form, an application for a permit under this section within ten (10) days after taking possession of a native turtle. The application must show the person lawfully obtained the turtle. For a turtle that was lawfully obtained:

- (1) a receipted invoice;
- (2) a bill of lading; or
- (3) other evidence approved by the director;

must accompany the application. A certificate of veterinary inspection from the state of origin must accompany an application for a turtle obtained outside Indiana.

(f) If supported by appropriate documentation, an unlimited number of native turtles that were legally obtained but not taken from the wild may be possessed under this permit.

(g) A conservation officer shall inspect each cage or enclosure before **a the first** permit can be issued **to an applicant**. A turtle must be:

- (1) quarantined for at least thirty (30) days and display no signs of illness before being placed with other turtles; and
- (2) confined in a cage or other enclosure that:
 - (A) makes escape of the animal unlikely; and
 - (B) prevents the entrance of free-roaming turtles.

The cage or enclosure must provide the turtle with ample space for exercise and to avoid overcrowding. Each turtle shall be handled, housed, and transported in a sanitary and humane manner. Mature male and female turtles of the same species must be caged separately. Upon request by a conservation officer, an applicant must make any cage or enclosure available for inspection.

(h) A turtle possessed under this section:

- (1) must not be:
 - (A) bred;
 - (B) sold;
 - (C) traded;
 - (D) bartered; or
 - (E) released into the wild; and
- (2) may be given only to an individual who possesses a permit under this section.

(i) A turtle with a straight-line carapace length of four (4) inches or greater must be permanently marked with a unique passive integrated transponder (pit tag) implanted under the skin. Only pit tags that can be read by an AVID Reader may be implanted. The director may, however, approve a temporary identification method for use on a sick or injured turtle.

(j) A permit holder must not commercially advertise adoption services.

(k) A permit holder must not place a turtle on public display unless the person also possesses an educational permit issued under 312 IAC 9-10-9.5.

(l) A copy of the records must be kept on the premises of the permit holder for at least two (2) years after the turtle was obtained, and a copy must be provided to a conservation officer upon request. The records shall include the following:

(1) The:

- (A) taxa;
- (B) number;
- (C) carapace length; and
- (D) weight;

of each turtle obtained.

(2) The:

- (A) complete name;
- (B) address; and
- (C) telephone number;

of the person from whom a turtle was obtained.

(3) The date obtained.

(4) The unique passive integrated transponder code of each implanted turtle.

(m) A conservation officer:

(1) may enter the premises of the permit holder at all reasonable hours to inspect:

- (A) those premises; and
- (B) any records relative to the permit;

(2) shall immediately notify the permit holder if the inspection reveals a turtle is being kept under unsanitary or inhumane conditions and

(3) may make a second inspection after ten (10) days to determine if any permit deficiency has been corrected that was reported to the permit holder.

(n) A permit expires on June 30 of the **third year following the year in which** the permit was issued.

(o) The permit holder must provide an annual report to the division by July 15 of each year with the following information:

(1) The taxa and number of each native turtle.

~~(2) The:~~

- ~~(A) complete name;~~
- ~~(B) address; and~~
- ~~(C) telephone number;~~

~~of the person from whom a turtle was obtained.~~

~~(3) (2) The date the turtle was obtained.~~

~~(4) (3) The unique passive integrated transponder code of each implanted turtle or another type of unique identification.~~

(p) A permit may be suspended, denied, or revoked and any turtle confiscated, under IC 4-21.5, if the permit holder fails to comply with any of the following:

(1) A permit issued under this section.

(2) This article.

(3) Another applicable state, local, or federal law.

(Natural Resources Commission; 312 IAC 9-5-11; filed Sep 23, 2004, 3:00 p.m.: 28 IR 546; filed Jun 23, 2006, 2:24 p.m.: 20060719-IR-312050214FRA)

SECTION 5. 312 IAC 9-10-16 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-16 Dog training grounds permit

Authority: IC 14-22-2-6

Affected: IC 14-22-31

Sec. 16. (a) A person may take northern bobwhite quail (*Colinus virginianus*) or ring-necked pheasants (*Phasianus colchicus*), ~~which that~~ have been raised in captivity, for the purpose of training dogs only pursuant to a permit issued under this section.

(b) An application for a dog training grounds permit must be completed on a department form and filed with the division. The application must demonstrate the applicant owns or controls a contiguous tract of land. **The dog training ground must contain between at least five (5) and no more than twenty (20) acres.** This land shall not be located within one (1) mile of a state-owned or state-controlled public hunting area. **Only one dog training ground may be licensed by the department on a contiguous tract of land.**

(c) The boundaries of the land permitted under this section must be marked with signs at least ~~eighteen (18)~~ **sixteen (16)** inches wide and ~~eighteen (18)~~ **sixteen (16)** inches long with a white background and one (1) inch high lettering which states "dog training grounds". The signs must be placed no more than five hundred (500) feet apart and along the entire boundary of the dog training grounds.

(d) A northern bobwhite quail or a ring-necked pheasant must be banded with a standard metal or plastic leg band before being released on the dog training grounds. **A person training dogs on a dog training area shall have in possession:**

- (1) a bill of sale for the game birds released for training; or**
- (2) a copy of the person's game breeder license.**

(e) A daily record of the training activities on the grounds must be maintained by the permit holder. The information contained on the daily record shall include the following:

- (1) The name and address of each trainer using the grounds.
- (2) The number and species of birds released.
- (3) The number and species of birds taken.

(f) ~~No training activities~~ **quail or pheasants shall take place** **be taken under this section** except between sunrise and sunset.

(g) ~~The grounds~~ **birds cannot also be possessed in captivity for more than five (5) days or sold used for game breeding** unless a game breeder license is held under ~~section 4 of this rule~~ **312 IAC 9-10-4.**

(h) ~~The grounds cannot also be used for a field trial unless a permit is held under section 7 of this rule.~~

any of the following:

- (1) a field trial, unless a permit is held under 312 IAC 9-10-7;**
- (2) a shooting preserve, unless a license is held under IC 14-22-31;**
- (3) a commercial purpose, including charging a fee or advertising for the use of the property to train dogs; or**
- (4) the purpose of breeding game mammals or game birds unless the person is licensed under 312 IAC 9-10-4.**

(i) **A permit expires on December 31 of the year in which the permit was issued.**

(j) **A conservation officer may enter the premises of the permit holder at all reasonable hours to inspect those premises and any records relative to the permit.** (*Natural Resources*

Commission; 312 IAC 9-10-16; filed May 12, 1997, 10:00 a.m.: 20 IR 2736; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)